Collateral Consequences Policy Brief

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Policy brief on the topic of collateral consequence and how these consequences affect minorities and reentry into the community.
COLLATERAL CONSEQUENCES: POLICY BRIEF
Policy Brief

**Title**
The Uniform Collateral Consequences of Conviction Act of (n.d) has a profound effect on rehabilitation and reentry into the community and an even a more profound effect on African American women and people of color who are “justice involved”.

**Executive Summary**
The War on Drugs contributed to the social problem defined as mass incarceration or a very large increase in the number of people that are put in jails and prisons. The War on drugs was created to reduce drug sales and drug use in the U.S. The laws and policies established to deal with the drug problem were racialized and consisted of longer, tougher sentences for non-violent drug offenses. These racialized laws targeted people of color, minorities, and disadvantaged communities. The U.S. Commission (2019) says that, “More than 620,000 people are released from federal and state prisons each year and return to their communities.” Individuals with a felony background have many problems associated with being able to function in a given community without proper resources, due to collateral consequences. According to Chin (2002) Collateral Consequences can be defined as penalties, disabilities, or disadvantages that occur automatically because of criminal conviction, other than the sentence itself.” The Uniform Collateral Consequences Act should be changed because this act denies valuable resources to individuals who have served the time required to be released from incarceration. This act also eliminates the ability for rehabilitation and reentry into the community. A successful reentry policy should consist of removing the collateral consequences that denies basic human rights needed to live, such as: housing, welfare benefits, and family reunification. A new policy will reduce recidivism rates and give individuals a chance to undergo successful rehabilitation and reentry into society. The Basic Rights Policy will consist of allowing individuals to receive: TANF benefits, HUD housing, and the option to regain parental rights.

**Scope of Problem**
Fornili (2018) says that, the Crime Bill or the Violent Criminal Control and Law Enforcement Act of 1994 was put into place to deal with the effects of The War on Drugs. The Crime Bill created biased “racialized” laws that effected African American women, people of color, and disadvantaged communities at higher rates than Caucasians. “Racialized” laws caused people of color and minorities to be “disproportionally” incarcerated for non-violent drug cases. Some of the laws include: Stop and Frisk, Three Strikes You’re Out, Broken Windows theory, Mandatory Minimum Sentencing, Twenty-five Years to Life, and Truth sentencing. The U.S. Commission (2019) also says that, “The U.S. Department of Justice estimates that between 70 and 100 million adults in the U.S. have a criminal record, which could include a felony conviction, a misdemeanor, or an arrest without a conviction.” Unfortunately, many do not know that these consequences exist, until they are released from incarceration. The consequences of felony conviction may come with a lifetime restriction on essential resources needed to live. According to Malcolm and Seibler (2017), “Collateral consequences impose civil disabilities on ex-offender’s exercise of constitutional rights. There are over 46,000 collateral consequences at the state and federal level, with 60%-70% related to employment, which stifle opportunities for success. Some collateral consequences unnecessarily frustrate reintegration and increase the likelihood of recidivism.” In addition, Hong (2018) states that, “In effect, the black woman as a black individual and as a woman, exists at the critical junction between two groups that have both been largely impacted by the “tough on crime” polices.”
Critique of Policy Options

Structural Functionalism is a theory that describes how institutions function in a given society. The manifest functions of the Uniform Collateral Consequences Conviction Act is to ensure that people in society are protected. Protecting the public is necessary if there is a risk of harm to others, but if there is not a risk, then the latent functions of the Uniform Collateral Consequences Act could have an effect on the community by depriving resources to minorities, low-income individuals, women, and people of color. These resources are needed for those who have a criminal record or are justice involved to be “self-sufficient” in the community upon reentry. Not having enough resources have been known to increase recidivism rates and cause many other issues such as: loss of parental rights, inability to get an education, unemployment, and homelessness. According to Sohoni (2014), “The goal of these laws varies, in some cases the law serves as an additional punishment (e.g., welfare restrictions), in others the law is concerned with public safety (e.g., gun restrictions) while for others the goal is mixed, unclear or debated (e.g., voting restrictions, employment restrictions). The effects of these laws on crime and recidivism are undetermined; while one effect could be to deter potential offenders, many researchers and service providers have expressed concern that a potential unintended consequence of some of these laws is that they can prevent convicted felons from effectively reintegrating into society, making it more likely that they will return to criminal activity.”

For instance:

- A lifetime ban can be placed on receiving TANF benefits. Temporary Assistance to Needy Families is a welfare program that helps those who are considered low income with cash and food aid. These benefits are needed to take care of single parents, families, and children. When released, many women need a source of income to be able to take care of their children and/or to regain custody of children who may have been in the foster care system.

- The Department of Housing and Urban Development Act (HUD) of 1965 was designed to assist low-income individuals with permanent housing. Those who have a felony conviction or a criminal background will not be eligible to receive Section 8 or low-income housing after being incarcerated. Proper housing is need for many reasons. One reason is that it may decrease chances of returning to jail or prison. Section 8 housing in some cases, will help with regaining custody of children by providing shelter for the family. The HUD act decreases homelessness, as well.

- The Adoption and Safe Families Act laws require children to be removed out of the parental custody after 12-15 months of being incarcerated. Removing children can have many psychological effects on the biological parents and on a child’s overall mental health and behavior. Allowing parents to regain custody after incarceration will help with the child mental health and reduce chances of the parents reentering the justice system.

- According to Smith and Young (2003), “Families of incarcerated mothers experience the multiple impacts of mandatory minimum sentencing policies, ASFA, and TANF over an extended period of time.” African American women experience these compounding affects in addition to racism, discrimination, and disadvantages in the community. These policies maintain and keep African American women in positions that force them to return to being incarcerated due to the lack of resources provided to them, causing an increase in recidivism among black women.
Policy Recommendations

Silva (2015) states that, “Often automatic upon a conviction, collateral consequences work to relegate individuals to the status of second-class citizen by the systematic deprivation of opportunity in all aspects of life. “The Uniform Collateral Consequences of Convictions Act must be eliminated because it creates a “downward spiral” in society. UCCCA increases incarceration rates or recidivism, prevents successful reentry into the community, causes strain on children and families, which in turn, breaks down the community by increasing crime rates due to, lack of resources.

According to Aruma and Hanachor (2017), “Physiology needs are human basic needs which are critical for human living in various participating communities in the society.” Maslow’s Hierarchy of needs suggest that basic physiological needs must be met first which include: shelter, food, and water. It is important that basic human needs are met so that formally incarcerated individuals will be able to work toward providing for themselves in the community. HUD housing and TANF may satisfy this need if collateral consequences are an obstacle. Restrictions on TANF produces a magnified effect on people of color, women, minorities, children, and families who are already dealing with other issues such as: racism and discrimination. The Consequences of a felony conviction is said to take away the civil rights promised to all in the constitution. In order to assist with successful reentry into communities, decrease recidivism, preserve families, provide dignity and resources to be” self-sufficient”, the Basic Rights Policy must become a law. The Basic Rights initiative will give back needed resources to formally incarcerated individuals. These resources would include: TANF, a chance to regain parental rights, and HUD housing to create a way for successful reentry into the community. In all, it is important for social workers to make sure that individuals are not deprived of the civil rights that they are entitled to from being a citizen in the U.S. Social worker advocates could support individuals by lobbying for the Basic Rights law, to passed in congress. This is a law that ensures that individuals are receiving, at its minimum, shelter, food, water, and a few other basic necessities that help those who were formally incarcerated rehabilitate and reintegrate into society, properly.

Process Objectives

Goal: To eliminate the parts of the Uniform Collateral Consequences Act (UCCCA) that hinders successful rehabilitation and reentry into the community. Process Object I: By November 1, 2020, an awareness campaign should be formed to accumulate funding and support for the Basic Rights Policy. Stake holders, Businesses, Organizations, and public donors should be made aware of the policy and asked to contribute. Outcome Object I: By September 1, 2020, Social Workers and Advocates should complete a Basic Rights Proposal to the City Council for formally incarcerated individuals to have funds allocated, for the distribution of TANF, HUD, and Parental Rights after incarceration. Outcome Object II: By October 1, 2020, Social Workers and Advocates should provide the basic resources needed to formally incarcerated individuals, promptly. These resources include distribution of TANF benefits, HUD housing vouchers, and a chance to regain Parental Rights. Criterion for Measurement: Justice involved individuals will report in a survey if their needs were met by the Basic Rights Policy. Social Workers will keep track and monitor the number of individuals served by the policy and report any loop holes to the Justice Department and the Department of Criminal Justice, through a computerized survey report system.
References


